

[REDACTED] (RMD) (FBI)

**From:** Zummer, Michael S. [REDACTED] (FBI)  
**Sent:** Monday, August 08, 2016 2:27 PM  
**To:** FBI.PREPUB  
**Subject:** RE: Short Deadline - Review Request

b6 1, 2

Thank you. I appreciate it.

--

----- Original message -----

**From:** "FBI.PREPUB" [REDACTED]  
**Date:** 08/08/2016 1:25 PM (GMT-06:00)  
**To:** "Zummer, Michael S. [REDACTED]@ic.fbi.gov">  
**Subject:** RE: Short Deadline - Review Request

b6 2  
b7E 1

Good afternoon,

I received your e-mail. I'll take a look and get back to you.

Thanks

[REDACTED]  
(540) 868-1697

b6 1, 2

**From:** Zummer, Michael S. [REDACTED] (FBI)  
**Sent:** Monday, August 08, 2016 10:14 AM  
**To:** FBI.PREPUB  
**Subject:** Short Deadline - Review Request

My name is Michael Zummer. I am an [REDACTED] If possible, I am requesting prepublication review by August 15, 2016. I understand that is far shorter than the required 30 business days. However, I am attempting to disclose prosecutorial misconduct to a Federal judge in a case and there is a sentencing hearing on August 17, 2016. I previously attempted to disclose this misconduct in my official capacity. I assumed the process outlined to me by management and OGC would have worked. Also, I was dissuaded from seeking prepublication review at one point. The process has not worked. I have received no word from DOJ, so I have chosen to do this in my personal capacity. I apologize for the short deadline and understand that RMD did not create this problem. b6 2

In order to mitigate the short time-frame that I have, I have prepared two letters to the judge. One simply notifies the court of the existence of my letter and that it has been sent for review, the Notification Letter. The other is the full disclosure of misconduct, the Misconduct Letter. I hope that I can at least provide the Notification Letter to the court before sentencing on August 17, 2016.

Since I am being forced to send this in my personal capacity under the First Amendment, I intend to submit the letter(s) to members of the media as well as the court. I can provide a list of names if necessary. I have also added some other thoughts and opinions to the Misconduct Letter that I would not have done in my official capacity.

My desk telephone number is [REDACTED] and my cellular telephone number is [REDACTED]

b6 2

Can you please acknowledge receipt of this? Please do not hesitate to contact me if you have any questions or if any changes to the letters would make the process easier. I can provide copies of what is already public record in the captioned case. The case at issue is on [REDACTED]

b6 5

The two letters are attached.

b7C 5

b7A 1

Thank you,

Mike Zummer

[REDACTED] (RMD) (FBI)

**From:** Zummer, Michael S. [REDACTED] (FBI)  
**Sent:** Thursday, August 11, 2016 9:50 PM  
**To:** FBI.PREPUB  
**Subject:** RE: Short Deadline - Review Request  
**Attachments:** Zummer Notification Letter Prepub Review-Edited 8-11-2016.docx; Zummer Misconduct Letter Prepub Review-Edited 8-11-2016.docx

b6 1, 2

I apologize for doing this, but today I heard back from DOJ OPR. I needed to make some minor changes to the two letters I submitted on Monday to reflect the final determination on my attempt to submit this to the court in my official capacity. I also changed the date and took out my phone number. All removed text has been lined through and changed to red. All additions are highlighted. The only changes to the longer misconduct letter are on pages 1 and 22.

The edited letters are attached with filenames reflecting they have been edited.

Thank you,

Mike Zummer

**From:** FBI.PREPUB  
**Sent:** Monday, August 08, 2016 1:26 PM  
**To:** Zummer, Michael S. [REDACTED] (FBI)  
**Subject:** RE: Short Deadline - Review Request

b6 2

Good afternoon,

I received your e-mail. I'll take a look and get back to you.

Thanks

[REDACTED]  
(540) 868-1697

b6 1, 2

**From:** Zummer, Michael S. [REDACTED] (FBI)  
**Sent:** Monday, August 08, 2016 10:14 AM  
**To:** FBI.PREPUB  
**Subject:** Short Deadline - Review Request

My name is Michael Zummer. I am an [REDACTED] If possible, I am requesting prepublication review by August 15, 2016. I understand that is far shorter than the required 30 business days. However, I am attempting to disclose prosecutorial misconduct to a Federal judge in a case and there is a sentencing hearing on August 17, 2016. I previously attempted to disclose this misconduct in my official capacity. I assumed the process outlined to me by management and OGC would have worked. Also, I was dissuaded from seeking prepublication review at one point. The process has not worked. I have received no word from DOJ, so I have chosen to do this in my personal capacity. I apologize for the short deadline and understand that RMD did not create this problem.

b6 2

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disclosure of misconduct, the Misconduct Letter. I hope that I can at least provide the Notification Letter to the court before sentencing on August 17, 2016.

Since I am being forced to send this in my personal capacity under the First Amendment, I intend to submit the letter(s) to members of the media as well as the court. I can provide a list of names if necessary. I have also added some other thoughts and opinions to the Misconduct Letter that I would not have done in my official capacity.

My desk telephone number is [REDACTED] and my cellular telephone number is [REDACTED]

b6 2

Can you please acknowledge receipt of this? Please do not hesitate to contact me if you have any questions or if any changes to the letters would make the process easier. I can provide copies of what is already public record in the captioned case. The case at issue is on [REDACTED]

b6 5  
b7C 5  
b7A 1

The two letters are attached.

Thank you,

Mike Zummer

[REDACTED] (RMD) (FBI)

**From:** Zummer, Michael S. [REDACTED] (FBI)  
**Sent:** Monday, August 15, 2016 5:13 PM  
**To:** [REDACTED] (RMD) (FBI); FBI.PREPUB  
**Subject:** RE: Short Deadline - Review Request

b6 1, 2

Thank you. I appreciate the explanation. I understand that my request for an appeal is noted. However, with the sentencing hearing on Wednesday August 17, 2016, RMD's failure to provide a release authorization will violate what I believe is my First Amendment right as a citizen to notify a Federal judge of prosecutorial misconduct regarding a case before his court. Since my rights will be irreparably harmed if I cannot make this disclosure before the upcoming hearing, I can only treat this as the FBI's final decision, even though there has been no written appeal decision. This is a legal question that can only be resolved in the Federal courts.

I look forward to your response on the letters to the media.

**From:** [REDACTED] (RMD) (FBI)  
**Sent:** Monday, August 15, 2016 3:30 PM  
**To:** Zummer, Michael S. [REDACTED] (FBI); FBI.PREPUB  
**Subject:** RE: Short Deadline - Review Request

b6 1, 2

Mike—

Your appeal is noted. For clarity, the August 12, 2016 pre-pub decision letter (declining pre-pub review as out of scope) addressed the specific part of your request seeking to release the letters to the Federal Judge. You'll receive a written appeal decision.

The part of your request seeking pre-publication review of the letters to the media is under review. You'll also receive written correspondence on that pre-publication decision.

Regards,

[REDACTED]

Assistant Section Chief  
Record/Information Dissemination Section  
FBI Records Management Division

b6 1

[REDACTED] (desk)  
[REDACTED] (cell)

**From:** Zummer, Michael S. [REDACTED] (FBI)  
**Sent:** Friday, August 12, 2016 5:58 PM  
**To:** FBI.PREPUB; [REDACTED] (RMD) (FBI)  
**Subject:** RE: Short Deadline - Review Request

b6 1, 2

Pursuant to the Section 4.3.2 of the Prepublication Review Policy Guide, I request an appeal to the AD RMD of your action's decision that my request is not subject to prepublication policy review. Because of the sentencing on August 17, 2016, I request a final agency decision no later than the close of business on Monday August 15, 2016. It is my position that I have a First Amendment right as a citizen to disclose these matters to the court even if I have been barred from doing so in my official capacity by the FBI.

**From:** FBI.PREPUB  
**Sent:** Friday, August 12, 2016 3:33 PM  
**To:** Zummer, Michael S. [REDACTED] (FBI)  
**Subject:** RE: Short Deadline - Review Request

b6 2

Good afternoon [REDACTED] Zummer,

Unfortunately, the letters you submitted for FBI pre-publication review are outside the scope of our review. Please see attached letter.

**From:** Zummer, Michael S. [REDACTED] (FBI)  
**Sent:** Thursday, August 11, 2016 9:50 PM  
**To:** FBI.PREPUB  
**Subject:** RE: Short Deadline - Review Request

b6 2

I apologize for doing this, but today I heard back from DOJ OPR. I needed to make some minor changes to the two letters I submitted on Monday to reflect the final determination on my attempt to submit this to the court in my official capacity. I also changed the date and took out my phone number. All removed text has been lined through and changed to red. All additions are highlighted. The only changes to the longer misconduct letter are on pages 1 and 22.

The edited letters are attached with filenames reflecting they have been edited.

Thank you,

Mike Zummer

**From:** FBI.PREPUB  
**Sent:** Monday, August 08, 2016 1:26 PM  
**To:** Zummer, Michael S. [REDACTED] (FBI)  
**Subject:** RE: Short Deadline - Review Request

b6 2

Good afternoon,

I received your e-mail. I'll take a look and get back to you.

Thanks

[REDACTED]  
(540) 868-1697

b6 1, 2

**From:** Zummer, Michael S. [REDACTED] (FBI)  
**Sent:** Monday, August 08, 2016 10:14 AM  
**To:** FBI.PREPUB  
**Subject:** Short Deadline - Review Request

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My desk telephone number is [REDACTED] and my cellular telephone number is [REDACTED]

b6 2

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b6 5

b7C 5

b7A 1

The two letters are attached.

Thank you,

Mike Zummer



U.S. Department of Justice

Federal Bureau of Investigation

Records Management Division

Winchester, VA 22602-4843

August 12, 2016

Mr. Michael S. Zummer



b6 2

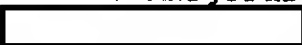
Re: Letters to Federal Judge Disclosing Prosecutorial Misconduct

Dear Mr. Zummer,

This is in response to your request of August 8, 2016 to review letters to a Federal Judge disclosing prosecutorial misconduct for publication pursuant to the Federal Bureau of Investigation's (FBI) Prepublication Review Policy (PRP) and Prepublication Review Policy Guide (0792PG).

We have determined your request is not subject to prepublication policy review. Specifically, Section 4.1.3 of the Prepublication Review Policy Guide prescribes that disclosures made in the performance of official duties are outside the scope of the Policy Guide. Therefore, no action will be taken on your request, and this declination of prepublication review is not a release authorization by this office.

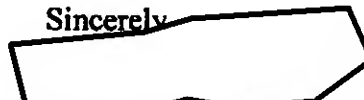
Should you have any questions, please do not hesitate to contact us via e-mail at



Thank you for your participation in the FBI's prepublication review process.

b7E 1

Sincerely



Acting Section Chief



Assistant Section Chief  
Record/Information  
Dissemination Section

b6 1





U.S. Department of Justice

Federal Bureau of Investigation

Records Management Division

Winchester, VA 22602-4843

August 24, 2016

Mr. Michael S. Zimmer



b6 2

Re: "Misconduct Letters and its Release to the Media"

Dear Mr. Zimmer,

This responds to your request of August 8, 2016, as you revised on August 11, 2016 for review of the above referenced letters for publication pursuant to the Federal Bureau of Investigation's (FBI) Pre-publication Review Policy (PRP) and Pre-publication Review Policy Guide (0792PG). This action concerns the component of your request seeking publication of the letters to the media. As you are aware, by letter dated August 12, 2016, this office acted on the component of your request seeking disclosure of the letters directly to the presiding federal judge, and you appealed that denial.

We have reviewed the work as you revised it on August 11, 2016--specifically a "notification" letter and a lengthy, detailed "misconduct letter" alleging prosecutorial misconduct-- in the context of release to the media and concluded that publication is not authorized.

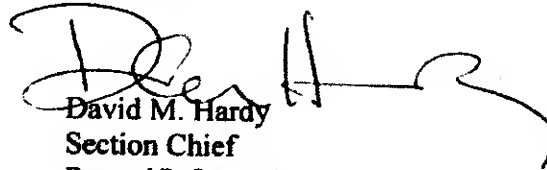
The content of your work acquired as an [redacted] in a criminal case prosecuted in the Eastern District of Louisiana triggers several prohibited disclosures. Specifically, publication of your letters to the media would reveal: (i) privileged, internal FBI and DOJ information (deliberative process privilege and attorney work product privilege); (ii) sensitive law enforcement techniques, procedures, and considerations; (iii) substantive information related to open investigations, and (iv) could reasonably be expected to constitute an unwarranted and clearly unwarranted invasion of personal privacy of numerous individuals you identify. See Pre-publication Review Policy Guide, Section 4.1.4.

b6 2

Our findings are based on Bureau publication and security policy and extend only to the information contained in your submission of August 8 as revised on August 11, 2016. Even though this determination does not authorize publication, you are further advised that this pre-publication decision does not address or relieve you of the standards and other applicable FBI and Office of Government Ethics regulations or policies as set forth in the FBI Ethics and Integrity Program Policy Guide (0454PG). Per Pre-publication Review Policy Guide Section 4.3.2, you may appeal this adverse decision to the Assistant Director, Records Management Division.

Should you have any questions, please do not hesitate to contact [redacted] at 540-868-1697 b6 1  
or via e-mail at [redacted] Thank you for your participation in the FBI's pre- b7E 1  
publication review process.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Hardy", with a stylized flourish extending to the right.

David M. Hardy  
Section Chief  
Record/Information  
Dissemination Section



U.S. Department of Justice

Federal Bureau of Investigation

Records Management Division

Winchester, VA 22602-4843

September 8, 2016

Mr. Michael S. Zimmer

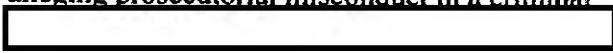



b6 2

Re: Pre-publication Appeal Request

Dear Mr. Zimmer,

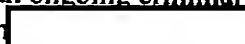
This responds to your appeal request of August 12, 2016 per Section 4.3.2 of the Prepublication Review Policy Guide (0792PG, hereinafter "Policy Guide") appealing a determination of the Record/Information Dissemination Section (RIDS) of the same date of your request submitted August 8, 2016.

Your request of August 8, 2016 sought prepublication review to disclose two letters directly to a federal judge as a "private citizen" alleging prosecutorial misconduct in a criminal case you worked in your official capacity as an   (Eastern District of Louisiana).

b6 2, 5  
b7C 5

By letter dated August 12, 2016, RIDS advised the disclosure of the letters to the federal judge was outside the scope of the Policy Guide, citing Section 4.1.3, as it would be a disclosure made in the performance of your official duty. The RIDS letter also advised you the declination of prepublication review was not a release authorization. This declination of prepublication review pertained specifically to your request to publish the letters to the Judge; it did not address the component of your request to publish the same letters to the media.

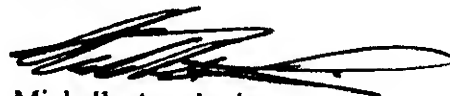
After reviewing your request, I affirm the RIDS determination of August 12, 2016 that your request to publish the letters to the Judge was outside the scope of FBI prepublication review.

First, your characterization of submission to the Judge as a "private citizen" does not itself trigger an FBI prepublication review. Second, the substantive issues you raised contain privileged and law enforcement sensitive information related to an ongoing criminal case that you were able to access and compile solely in your capacity as an  in this federal proceeding. Accordingly, your communication to the Judge in the case, as RIDS determined, is a matter of official duty performance not subject to prepublication policy.

b6 2

As prescribed by the Policy Guide, disclosure of DOJ/FBI information in a federal proceeding is subject to the provisions of 28 C.F.R, Part 16 and Policy Guide, Section 2.5. Per Section 4.3.2 of the Policy Guide, this is a final decision.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michelle Ann Jupina', with a long, sweeping horizontal stroke extending to the right.

Michelle Ann Jupina  
Assistant Director

[REDACTED] (RMD) (FBI)

**From:** Zummer, Michael S. [REDACTED] (FBI)  
**Sent:** Thursday, September 22, 2016 10:08 AM  
**To:** FBI.PREPUB  
**Subject:** RE: Review Request

b6 1, 2

Great. Thank you. I really appreciate it.

----- Original message -----

**From:** "FBI.PREPUB" [REDACTED]  
**Date:** 09/22/2016 9:06 AM (GMT-06:00)  
**To:** "Zummer, Michael S. [REDACTED]@ic.fbi.gov">  
**Subject:** RE: Review Request

b6 2  
b7E 1

Thanks for the clarification. ASC [REDACTED] is out on leave this week. We can get you a response when he returns.

[REDACTED] b6 1

**From:** Zummer, Michael S. [REDACTED] (FBI)  
**Sent:** Thursday, September 22, 2016 10:03 AM  
**To:** FBI.PREPUB [REDACTED]  
**Subject:** RE: Review Request

b6 1, 2  
b7E 1

Thanks, [REDACTED] Yes, please send it up to the SC for review and a response for release to the media. I want to make sure I've gone through the appropriate process on both final versions. I can't say I have a particular deadline. Is thirty days reasonable?

Thank you,

Mike

----- Original message -----

**From:** "FBI.PREPUB" [REDACTED]  
**Date:** 09/22/2016 8:58 AM (GMT-06:00)  
**To:** "Zummer, Michael S. [REDACTED]@ic.fbi.gov">  
**Subject:** RE: Review Request

b6 2  
b7E 1

[REDACTED] Zummer,

Just wanted to make sure I understand. Did you want me to push these up to the SC for review again and request a response? If so, what is the deadline?

Thanks

[REDACTED]

b6 1, 2  
b7E 1

**From:** Zummer, Michael S. [REDACTED] (FBI)  
**Sent:** Tuesday, September 20, 2016 9:57 AM  
**To:** FBI.PREPUB [REDACTED]  
**Subject:** RE: Review Request

No problem. I hate to throw all of this at you, but I won't be able to live with myself if I don't pursue it.

Thanks for your time and effort.

--

----- Original message -----

**From:** "FBI.PREPUB" [REDACTED]  
**Date:** 09/20/2016 8:52 AM (GMT-06:00)  
**To:** "Zummer, Michael S." [REDACTED]@ic.fbi.gov>  
**Subject:** RE: Review Request

b6 2  
b7E 1

Thank you

**From:** Zummer, Michael S. [REDACTED] (FBI)  
**Sent:** Friday, September 16, 2016 5:13 PM  
**To:** FBI.PREPUB [REDACTED]  
**Subject:** Review Request

b6 2  
b7E 1

This request is related to my previous request from August 8<sup>th</sup> and 11<sup>th</sup>, 2016. The first letter is a later version of those requests which you have already denied. However, I wanted to send it for your review to make sure you had the final version. The second letter is related to the first and serves as an addendum to it.

Please review these for release to the media and public in general.

Thank you,

Mike Zummer

[REDACTED] (RMD) (FBI)

**From:** [REDACTED]  
**Sent:** Tuesday, October 04, 2016 9:40 AM  
**To:** FBI.PREPUB  
**Subject:** RE: New E-mail Address for Submission

b6 1, 2

Thanks [REDACTED] I appreciate it.

b6 1

Mike

Sent from Mail for Windows 10

**From:** FBI.PREPUB  
**Sent:** Monday, October 3, 2016 4:23 PM  
**To:** [REDACTED]  
**Subject:** RE: New E-mail Address for Submission

b6 2

I will update your contact information. Your request is currently under review.

Thanks

[REDACTED]

**From:** [REDACTED]  
**Sent:** Monday, October 03, 2016 3:47 PM  
**To:** FBI.PREPUB [REDACTED]  
**Subject:** New E-mail Address for Submission

b6 1, 2  
b7E 1

Hello,

This is Mike Zummer. [REDACTED] I do not have access to my [REDACTED]  
[REDACTED]@ic.fbi.gov e-mail address or any FBI mail. I still request review of my previous submissions. Please  
contact me at this e-mail address [REDACTED] by U.S. Mail at my home address [REDACTED]  
[REDACTED] or by telephone at [REDACTED]

b6 2  
b7E 1

Thank you.

Mike Zummer

Sent from Mail for Windows 10



U.S. Department of Justice

Federal Bureau of Investigation

Records Management Division

Winchester, VA 22602-4843

January 20, 2017

Mr. Michael S. Zummer



b6 2

Re: Misconduct Letter and its Release to the Media

Dear Mr. Zummer,

This letter is in response to your request of September 22, 2016, for review of the above referenced letter for publication pursuant to the Federal Bureau of Investigation's (FBI) Prepublication Review Policy (PRP) and Prepublication Review Policy Guide (0792PG)

This letter was reviewed pursuant to the terms of the PRP and we have made the appropriate redactions for its public release to the media.

Our findings are based on Bureau publication and security policy and extend only to the release of information contained in your submission. This, however, does not constitute approval by the FBI for you to engage in publication for compensation, sale, or other commercial use of your work. In that regard, you must also comply with the Standards of Ethical Conduct for the Executive Branch.

The Standards limit the circumstances under which an employee may accept compensation for the sale or publication of written works. The Standards also limit the extent to which you may use your official title, position, FBI status, or other indicia of your FBI employment in connection with publishing, advertising or marketing your work, to include mention in any biographical statement related to the work, such as in a "dust jacket." If you intend to mention in your biographical statement that you work for the FBI, you should consult the Office of Integrity and Compliance (OIC).

Again, compliance with the prepublication policy does not relieve you of the obligation to comply with the Standards and other applicable FBI and Office of Government Ethics regulations or policies. Prior to taking any further action with respect to this work, consider applicable regulations as set forth in the FBI Ethics and Integrity Program Policy Guide (0454PG), with particular attention to Sections 4.8. and 4.9. You may also be required to submit an FD-331 Outside Employment Form depending on how you intend to sell or market your work. Please contact the OIC if you have any questions regarding these regulations.

FBI(18-cv-1129)-125



As your work may also impact the mission of the Office of Public Affairs, a copy of this letter has been forwarded to that office for their information.

Should you have any questions, please do not hesitate to contact [REDACTED] at (540) 868-1697 or via e-mail at [REDACTED]. Thank you for your participation in the FBI's prepublication review process. b6 1 b7E 1

Sincerely,

David M. Hardy  
Section Chief  
Record/Information  
Dissemination Section

[REDACTED] (RMD) (FBI)

b6 1, 2

**From:** [REDACTED]  
**Sent:** Wednesday, February 15, 2017 2:23 PM  
**To:** FBI.PREPUB  
**Subject:** RE: New E-mail Address for Submission

Great. Thank you.

Sent from Mail for Windows 10

**From:** FBI.PREPUB  
**Sent:** Wednesday, February 15, 2017 12:35 PM  
**To:** [REDACTED]  
**Subject:** RE: New E-mail Address for Submission

b6 2

Good afternoon,

We have received your request to appeal and the status of September 6 request. I will send you an update soon.

[REDACTED]

**From:** [REDACTED]  
**Sent:** Tuesday, February 14, 2017 4:15 PM  
**To:** FBI.PREPUB [REDACTED]  
**Subject:** Re: New E-mail Address for Submission

b6 1, 2  
b7E 1

[REDACTED]

b6 1

Thanks for sending me the January 26, 2017 partial release of my August 15, 2016 letter to Judge Engelhardt. I appreciate it.

Without prejudicing the partial release given on January 26, 2017, per Section 4.3.2 of the Prepublication Review Policy Guide (0792PG), I request an appeal of the redacted portions of the August 15, 2016 letter. For the basis of my appeal, please refer to my September 6, 2016 letter to Judge Engelhardt, which I submitted at the same time as the August 15, 2016 letter.

I also request to know the status of the prepublication review of the September 6, 2016 letter.

Thank you for your time and effort.

Mike Zimmer

-----Original Message-----  
**From:** FBI.PREPUB [REDACTED]  
**To:** [REDACTED]  
**Sent:** Mon, Oct 3, 2016 4:23 pm  
**Subject:** RE: New E-mail Address for Submission

b6 2  
b7E 1

I will update your contact information. Your request is currently under review.

Thanks

[REDACTED]

b6 1

FBI(18-cv-1129)-127

From: [REDACTED]

Sent: Monday, October 03, 2016 3:47 PM

To: FBI.PREPUB [REDACTED]

Subject: New E-mail Address for Submission

b6 2  
b7E 1

Hello,

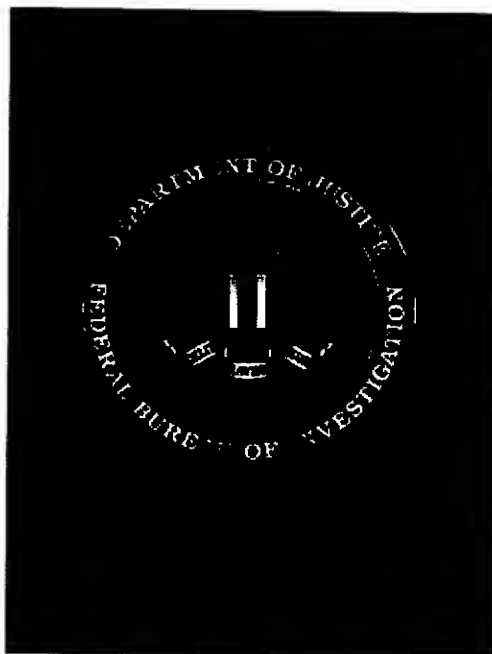
This is Mike Zummer. [REDACTED] I do not have access to my [REDACTED] b6 2  
[REDACTED] @ic.fbi.gov e-mail address or any FBI mail. I still request review of my previous submissions. Please b7E 1  
contact me at this e-mail address [REDACTED] by U.S. Mail at my home address [REDACTED]  
[REDACTED] or by telephone at [REDACTED]

Thank you.

Mike Zummer

Sent from Mail for Windows 10

## **Prepublication Review Policy Guide**



**Federal Bureau of Investigation  
Records Management Division  
0792PG**

**June 04, 2015**

**UNCLASSIFIED**

**UNCLASSIFIED**  
Prepublication Review Policy Guide

**General Information**

Questions or comments pertaining to this policy guide (PG) can be directed to:

Federal Bureau of Investigation Headquarters  
Records Management Division  
Record/Information Dissemination Section (RIDS) front office: (540) 868-4400

**Supersession Information**

This policy guide supersedes the *Prepublication Review (PR) Manual* (POL05-0001-RMD)  
dated September 15, 2005.

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**UNCLASSIFIED**  
Prepublication Review Policy Guide

## **Table of Contents**

<b>1. Introduction.....</b>	<b>1</b>
1.1. Background .....	1
1.2. Purpose .....	2
1.3. Scope .....	2
<b>2. Roles and Responsibilities .....</b>	<b>3</b>
2.1. Records Management Division .....	3
2.2. RMD Assistant Director (AD) .....	3
2.3. Record/Information Dissemination Section .....	3
2.4. Federal Bureau of Investigation Headquarters (FBIHQ) Divisions, Field Offices (FO), and Legal Attachés (Legat) .....	3
2.5. FBI Personnel .....	3
<b>3. Policies.....</b>	<b>4</b>
3.1. Prepublication Policy .....	4
<b>4. Procedures and Processes.....</b>	<b>5</b>
4.1. Prepublication Policy Scope.....	5
4.1.1. Oral, Written, or Electronic Disclosures .....	5
4.1.2. Extemporaneous Oral Disclosures .....	5
4.1.3. Disclosures Not Subject to Prepublication Policy .....	5
4.1.4. Prohibited Disclosures .....	6
4.1.5. Accountability for Permitted Disclosures .....	7
4.2. Prepublication Procedures .....	8
4.2.1. Submission of a Prepublication Review Requests .....	8
4.2.2. Submissions that Contain Operational or Intelligence Matters .....	8
4.2.3. Submissions Developed in Pursuit of Academic Degrees .....	9
4.2.4. Submissions Involving Human-Based Research .....	9
4.3. RMD Prepublication Review .....	9
4.3.1. RMD Response Time .....	10
4.3.2. Appealing an Adverse Decision .....	10
4.3.3. Post-Disclosure Reviews .....	10
<b>5. Summary of Legal Authorities .....</b>	<b>11</b>
<b>6. Recordkeeping Requirements.....</b>	<b>12</b>

## List of Appendices

Appendix A: Final Approvals .....	A-1
Appendix B: References .....	B-1
Appendix C: Definitions and Acronyms .....	C-1

**UNCLASSIFIED**  
Prepublication Review Policy Guide

## **1. Introduction**

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### **1.1. Background**

Under the First Amendment to the United States Constitution, Americans enjoy the right to free speech, which includes a right to publish. However, with regard to public employees, particularly Federal Bureau of Investigation (FBI) personnel, this right must comport with the FBI's significant law enforcement and national security responsibilities and the FBI's interest in maintaining effective and efficient operations. Accordingly, in matters concerning the use of FBI information, it is necessary for the FBI to protect its information from disclosures that could endanger substantial government interests. The *Prepublication Review Policy Guide* sets forth program guidance relating to the disclosure of FBI information outside of official use and ensures adequate protections for FBI personnel's constitutionally protected rights as citizens.

All information created and acquired by current and former employees and government contractor employees (hereinafter collectively referred to as "FBI personnel") in connection with official FBI duties, as well as all official material to which FBI personnel have access, is the property of the United States. FBI personnel must surrender all materials in their possession that contain FBI information upon FBI demand or upon separation from the FBI. Unauthorized disclosure, misuse, or negligent handling of FBI information could adversely affect national security, place human life in jeopardy, result in the denial of due process, obstruct justice, prevent the FBI from effectively discharging its responsibilities, or violate federal law.

Before disclosing FBI information outside of their official duty requirements, FBI personnel must submit the proposed disclosures to the Record Management Division's (RMD) Record/Information Dissemination Section (RIDS) Prepublication Review Office for review. This prepublication review affords the FBI the opportunity to (1) assess whether the proposed disclosure includes prohibited information, (2) advise submitting FBI personnel of any such concerns, and (3) work with the submitter to resolve such concerns.

The prepublication review process enables the FBI to undertake other lawful actions in appropriate cases to protect its missions and operations. This could include pursuing lawful efforts to prevent a prohibited disclosure, such as seeking an injunction, or to mitigate potential harm resulting from an impending disclosure. All FBI personnel are obligated to comply with prepublication review requirements by virtue of this PG, as well as by the "FBI Employment Agreement" (FD-291), signed by all FBI personnel as a condition of employment; by analogous forms, such as the "Nondisclosure Agreement for Joint Task Force/Contract Members" (FD-868), signed by task force members, contractors, and the like; by the "Classified Information Nondisclosure Agreement" (SF-312), signed by all FBI personnel as a condition of being granted access to classified information; and by the "Sensitive Compartmented Information (SCI) Nondisclosure



**UNCLASSIFIED**  
Prepublication Review Policy Guide

Agreement" (Form 4414), signed by all FBI personnel with access to SCI information as a condition of such access.

**1.2. Purpose**

This policy guide (PG) outlines specific policies and procedures regarding prepublication review and establishes requirements regulating individual conduct.

**1.3. Scope**

This PG applies to all FBI personnel, which encompasses current and former FBI employees, government contractor employees, assignees, task force officers, task force members, task force participants, interns, or other individuals who—through their relationship with the FBI—currently have, or had access to, FBI information. The term "FBI personnel" is defined as individuals employed by, detailed to, or assigned to the FBI, including members of the armed forces; experts or consultants to the FBI; industrial or commercial contractors, licensees, certificate holders, or grantees of the FBI, including all subcontractors; personal service contractors of the FBI; or any other category or person who acts for, or on behalf of, the FBI, as determined by the FBI Director.

## **2. Roles and Responsibilities**

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### **2.1. Records Management Division**

The RMD is responsible for providing guidance on all prepublication review issues, including those not explicitly covered in this PG.

### **2.2. RMD Assistant Director (AD)**

The RMD AD oversees a comprehensive, FBI-wide prepublication review program. The RMD AD also serves as the final decision maker on adverse decision appeals. Exceptions to this are addressed in subsection 4.2.4, of this PG, "Appealing an Adverse Decision."

### **2.3. Record/Information Dissemination Section**

RIDS establishes and disseminates policies and procedures governing the development, coordination, and overall management of the prepublication review program. RIDS also is responsible for reviewing and approving prepublication submissions.

### **2.4. Federal Bureau of Investigation Headquarters (FBIHQ) Divisions, Field Offices (FO), and Legal Attachés (Legat)**

FBIHQ division/FO/Legat heads, or their designees, are responsible for designation of subject matter experts to review prepublication submissions, as requested by RMD.

### **2.5. FBI Personnel**

All FBI personnel are obligated to comply with prepublication review requirements by virtue of this PG, as well as the "FBI Employment Agreement" (FD-291), signed by all FBI personnel as a condition of employment; by analogous forms, such as the "Nondisclosure Agreement for Joint Task Force/Contract Members" (FD-868), signed by task force members, contractors, and the like; by the "Classified Information Nondisclosure Agreement" (SF-312), signed by all FBI personnel as a condition of being granted access to classified information; and by the "Sensitive Compartmented Information (SCI) Nondisclosure Agreement" (Form 4414), signed by all FBI personnel with access to SCI information as a condition of such access.

Disclosure of Department of Justice (DOJ)/FBI information in federal or state proceedings is subject to the provisions of Title 28 Code of Federal Regulations (CFR) Part 16, Subpart B. FBI personnel who wish to make court appearances or respond to subpoenas in a personal capacity—which could require them to divulge FBI information—must contact their respective chief division counsels (CDC) or the Office of the General Counsel (OGC) for additional guidance.

**UNCLASSIFIED**  
Prepublication Review Policy Guide

### **3. Policies**

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#### **3.1. Prepublication Policy**

In light of the FBI's significant responsibilities to protect national security and ensure the effective enforcement of federal laws that could be compromised by disclosing FBI information to unauthorized recipients, it is FBI policy that prior to any proposed disclosure of FBI information (outside of official duty requirements), all FBI personnel must comply with the prepublication review process as described in this section.

Determinations made with respect to prepublication will consider rights protected by the First Amendment to the United States Constitution, the relationship between the individual's expression and his or her employment, and the potential of the proposed disclosure to affect FBI operations. FBI personnel who fail to comply with the prepublication review process or who make prohibited disclosures are subject to administrative actions, clearance revocations, disciplinary actions, civil suits, and/or criminal sanctions, as appropriate.

The legality or propriety of a disclosure will be reviewed during the prepublication review. The FBI prepublication review process does not encompass factual accuracy or grammar checks of the proposed disclosure. Similarly, completion of the prepublication review process does not constitute an FBI endorsement of the author or the material disclosed. Compliance with this PG does not relieve FBI personnel from the obligation to comply with FBI outside employment rules or the "Standards of Ethical Conduct for the Executive Branch," including any applicable limitations on compensation. It is the author's obligation to seek guidance from the RMD and the Office of Integrity and Compliance (OIC) on all prepublication review issues not explicitly covered in this section.

All provisions of this PG are severable. If a court should determine that any provision is unenforceable, that provision would be void, but the remainder would continue in full force.

## 4. Procedures and Processes

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### 4.1. Prepublication Policy Scope

#### 4.1.1. Oral, Written, or Electronic Disclosures

This policy applies to any oral, written, or electronic disclosure of FBI information by FBI personnel for any purpose identified in subsection 4.1.4. of this PG. Examples of disclosures include, but are not limited to, blogs, Web sites, articles, and books. This PG also applies to disclosures of drafts, initial manuscripts, and similar preliminary works to anyone, including attorneys. The only exception to this rule is for disclosures by FBI personnel who are testifying as defendants in criminal cases in the United States. In that limited situation, this does not cover disclosures made during testimony or during privileged conversations between FBI personnel and their attorneys.

#### 4.1.2. Extemporaneous Oral Disclosures

By their very nature, completely extemporaneous oral disclosures cannot be reviewed in advance. This does not mean FBI personnel may disregard the requirements of this section when making oral disclosures. Except in those rare instances where deferring comment would not be practicable due to unusually compelling circumstances beyond an individual's control, FBI personnel must defer comment until they can comply with this policy. If an individual reasonably concludes that deferring comment is not practicable, he or she may be subject to postdisclosure administrative action, discipline, and/or criminal sanctions, if warranted by the content of the disclosure.

**Example:** An FBI supervisor is participating in a widely attended social event. A congressman asks about a closed investigation centered in his district. The supervisor provides a brief overview of the investigation and, while doing so, discloses classified information. Under these circumstances, the supervisor may not be sanctioned for violating this policy, but may be sanctioned for disclosing classified information.

#### 4.1.3. Disclosures Not Subject to Prepublication Policy

- Disclosures that clearly have nothing to do with the FBI or its activities, investigations, missions, or operations and are not otherwise related to any FBI information are not subject to this PG.

**Example:** A book of children's stories, an article on stamp collecting, a letter to an editor addressing a proposed sewer bond, or an outline of a presentation on the War of 1812 need not be submitted for prepublication review.

- Official speeches, writings, and publications made in the performance of official duties are outside the scope of this PG.
- FBI personnel who wish to make court appearances or respond to subpoenas in a personal capacity, which could require them to divulge FBI information, must contact their CDCs or OGC for additional guidance and are not required to

**UNCLASSIFIED**  
Prepublication Review Policy Guide

undergo prepublication review. Disclosure of FBI information in federal or state proceedings is subject to the provisions of 28 CFR Part 16, Subpart B.

- Disclosures protected by law include the following:
  - Title 5 United States Code (U.S.C.) Section (§) 7211 (governing disclosures to Congress)
  - 10 U.S.C. § 1034, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military)
  - 5 U.S.C. § 2302(b)(8), as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse, or public health or safety threats).
  - The FBI Whistleblower Protection Act (5 U.S.C. § 2303 and 28 CFR Part 27) (governing disclosures of illegality, mismanagement, waste, fraud, abuse, or public health or safety threats).
  - The Intelligence Identities Protection Act of 1982 (50 U.S.C. § 421, et seq.) (governing disclosures that could expose confidential government agents).
  - Statutes that protect against disclosure and may compromise national security, including 18 U.S.C. §§ 641, 793, 794, 798, and 952 and § 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. § 783(b)).

**4.1.4. Prohibited Disclosures**

FBI personnel must not disclose the following types of information to unauthorized recipients, except in the performance of official duties or as authorized by the RMD:

- Information protected from disclosure by the Privacy Act of 1974, as amended.
- Classified information that is classified and the disclosure of which could harm national security. To the extent that proposed disclosures involve classified information, prepublication review processing will be conducted in conformance with 28 CFR § 17.18, in addition to 28 CFR Part 16.
- Information that reveals sensitive law enforcement, intelligence, counterintelligence, or counterterrorism techniques, sources, or methods of the FBI or any other governmental entity.
- Information that would reveal grand jury material protected from disclosure by Rule 6(e) of the Federal Rules of Criminal Procedure.
- Information that would tend to reveal the identity of a confidential source or the identity of a private institution or a government agency or authority when the information was furnished on a confidential basis.
- Information that relates to any sensitive operational details or the substantive merits of any ongoing or open investigation or case.
- Proprietary information and trade secrets.

**UNCLASSIFIED**  
Prepublication Review Policy Guide

- Information pertaining to wiretaps or intercepts, electronic communications (including storage mechanisms), or foreign intelligence protected or regulated by Title III (18 U.S.C. §§ 2510-2520) or the Foreign Intelligence Surveillance Act (FISA) (50 U.S.C. §§ 1801-1862).
- Information pertaining to currency transaction reports regulated or protected by 31 U.S.C. §§ 5313-5319.
- Tax return information regulated or protected by 26 U.S.C. § 6103.
- Information pertaining to contractor bids or proposals or source-selection information before the award of the procurement contract to which the information relates.
- The disclosure of any other information that is prohibited by executive order (EO) or regulation. Any other information that the FBI would have discretion to withhold from disclosure pursuant to civil discovery obligations, the Freedom of Information Act, or any other statute, law, or regulation.

**4.1.5. Accountability for Permitted Disclosures**

Disclosures will not be prohibited, pursuant to this PG, solely because they are critical or disparaging of the FBI, the government, or any individual. Any disclosures by current FBI personnel, however, that adversely affect the ability to effectively and efficiently fulfill their official responsibilities or that interfere with FBI operations may subject the individuals to administrative or disciplinary actions for the consequences of the disclosures. Examples of disclosures that are not prohibited under this PG, but still may subject FBI personnel to disciplinary actions are the disclosures of private grievances and disclosures that significantly impair discipline or harmony among co-workers. These types of disclosures could have detrimental impacts on close working relationships where personal loyalty or confidence is necessary, impede the performance of the duties of FBI personnel, or interfere with regular FBI operations. In such cases, FBI personnel will not be prohibited from making such disclosures, but they may be held accountable for the consequences of the disclosures.

FBI personnel may ordinarily speak or write about matters unrelated to their employment if they are expressing their personal views. However, when expressing such views to an audience that is aware of an individual's FBI employment, FBI personnel must make clear that they are stating their personal opinions, not the opinions of the FBI, and not their official opinions as FBI employees, contractors, or other members of FBI personnel.

**Example:** An employee is involved in and makes public statements regarding a neighborhood campaign to prevent the construction of a national superstore. The employee must not volunteer that he or she is an FBI employee. If the nature of the employment is already known or becomes known, the employee must affirmatively advise those who know this that any opinions or actions are personal and not the actions or opinions of the FBI.

**UNCLASSIFIED**  
Prepublication Review Policy Guide

**Example:** An employee makes public statements regarding substantial premium increases in one of the health plans available to federal employees. Because the employee's federal employment is relevant to his standing in the matter, he may identify himself as a federal employee eligible for the plan (not as an FBI employee), but he also must affirmatively advise that he is expressing his personal opinion and is not acting on behalf of a federal agency or expressing any federal agency's opinion.

Certain matters of significant public concern are so closely related to the responsibilities and missions of the FBI that there is a significant likelihood that any comments on such matters by FBI personnel will be perceived as reflecting an individual's official view in his or her official capacity with the FBI. Therefore, when communicating on matters closely related to the responsibilities, missions, or operations of the FBI, FBI personnel must make absolutely clear that they are expressing their personal opinions. Further, certain personnel may be precluded from publicly communicating their personal opinions on particular matters. For example, it may be inappropriate for a senior FBI official to publicly express his or her personal view regarding matters within the jurisdiction of the FBI. This is because others are likely to perceive the personal views of a senior management employee possessing substantial policy-making authority as indistinguishable from his or her official position as a senior FBI manager.

**Example:** A professional staff employee in administration (whose only information comes from media reports) makes public statements regarding a local park widely known for drug trafficking. The employee must not volunteer the information that she is an FBI employee. If the nature of the employee's employment is already known or becomes known, she must affirmatively advise those who know of her employment that she is expressing her personal opinion and not acting on behalf of, or expressing the opinion of, the FBI.

## **4.2. Prepublication Procedures**

### **4.2.1. Submission of a Prepublication Review Requests**

In general, FBI personnel must submit the full text of all proposed disclosures of FBI information to the RMD at least 30 business days in advance of the proposed disclosure.

Material should be submitted to the prepublication review coordinator either by unclassified e-mail at [FBIPREPUB@ic.fbi.gov](mailto:FBIPREPUB@ic.fbi.gov) or by mail addressed to the Prepublication Review Office, Records Management Division, 170 Marcel Drive, Winchester, Virginia 22602-4842.

### **4.2.2. Submissions that Contain Operational or Intelligence Matters**

When a submission contains operational or intelligence matters, it is unrealistic to assume the proposed disclosure will be reviewed within 30 business days. Prepublication review submissions must be made in writing, even if oral disclosure is contemplated. Although RMD will endeavor to review materials in a timely manner, the FBI prepublication

**UNCLASSIFIED**  
**Prepublication Review Policy Guide**

review requirement will not be satisfied until reviews are complete and authors have been notified.

**4.2.3. Submissions Developed in Pursuit of Academic Degrees**

During their FBI employment, FBI personnel occasionally elect to pursue academic degrees that require them to conduct research-based studies, write thesis papers, or create other projects as part of their educational pursuits. To the extent information contained in an education-related product is the type of FBI information prohibited from disclosure under subsection 4.1.4., that document constitutes an oral, written, or electronic disclosure within the scope of this PG and must be submitted for prepublication review. Because of the nature of academic studies and the deadlines often associated with completing academic work, FBI personnel are highly advised to submit any abstracts that describe, in sufficient detail, the scope of work to be completed in order to secure preliminary approval of the desired submission's subject, as well as information reasonably foreseen to be contained in any resulting publication. Upon the author's finalization of the submission, he or she must submit the document under prepublication review for final review and approval.

**4.2.4. Submissions Involving Human-Based Research**

FBI personnel seeking publication based on research conducted on human subjects are required to receive approval by the FBI Institutional Review Board (IRB) prior to submitting any publication for review to the RMD. The IRB is responsible for all research projects that involve human subjects and are not otherwise exempt. For an overview of the IRB, see the "Overview of the Institutional Review Board."

The IRB may approve the project, reject the project, or require modifications in order for the project to be approved. Approved projects involving human-based research are subject to continuing review by the IRB at least once per year. If the IRB determines an approved project has failed to meet the yearly continued review requirement in a timely manner; has not been conducted in accordance with its requirements; or has resulted in unexpected, serious harm to the subjects, the project may be suspended. The RMD will not review any publication that has failed to receive initial IRB approval or any subsequent requisite IRB approvals.

**4.3. RMD Prepublication Review**

The RMD will conduct the prepublication review, answer questions from FBI personnel about the prepublication review process, and review and process all requests as follows:

- The text of any proposed disclosure submitted for prepublication review is presumed to be proprietary and must not be disseminated to any person who does not have an official need to know such information.

**Example:** An employee submits a manuscript for review that discusses a past FBI/Central Intelligence Agency (CIA) operation that has been the subject of intense congressional review. The RMD may seek the assistance of the CIA in reviewing the manuscript. Additionally, the RMD may inform the Office of Congressional Affairs (OCA) of the likely



**UNCLASSIFIED**  
**Prepublication Review Policy Guide**

publication so that OCA may be prepared for subsequent congressional or press inquiries.

- If the RMD concludes that no review is required, it will inform the individual in writing.
- If the RMD concludes that a review is required, it will conduct the review.
- The RMD may consult or coordinate with any person who can assist in determining how to proceed with the prepublication review process. This may include seeking assistance to assess the content or potential impact of the proposed disclosure or to initiate appropriate responses to the proposed disclosure. In such instances, the proposed disclosure will be forwarded to the FBIHQ division(s) that has subject matter expertise concerning the proposed disclosure. FBIHQ division heads must designate a point of contact for prepublication review coordination.
- If the proposed disclosure includes material the RMD finds cannot be disclosed, RMD will notify the submitter and propose modifications that would be acceptable. The RMD will work with the individual and attempt to resolve all concerns.

**4.3.1. RMD Response Time**

In general, the RMD will respond to a request for a prepublication review within 30 business days of receipt of all required materials. (The day of receipt is not counted for purposes of calculating the 30 business day period, but the day of response is included.) Additional time may be necessary for sensitive, voluminous, or technical submissions. If the review requires additional time, RMD will provide periodic progress reports and will advise the submitter of the anticipated completion date.

**4.3.2. Appealing an Adverse Decision**

FBI personnel receiving an adverse decision may appeal that decision to the RMD's AD, who will act pursuant to a delegation of authority from the Director. The decision of the RMD's AD is final, with the exception of decisions relating to the deletion of classified information, which may be appealed to the deputy Attorney General pursuant to 28 CFR § 17.18.

**4.3.3. Post-Disclosure Reviews**

Actual disclosures are subject to post-disclosure reviews. An individual may be subject to a post-disclosure administrative or disciplinary action if the disclosure adversely affects the ability of another person to effectively and efficiently fulfill his or her official responsibilities (including disclosures of private grievances or information that impairs discipline or harmony among co-workers) and thus has a detrimental impact on the work environment, impedes the performance of the employee's duties, or interferes with the regular operations of the FBI.

**UNCLASSIFIED**  
Prepublication Review Policy Guide

## **5. Summary of Legal Authorities**

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The following legal summaries are cited in this PG and provide additional information for understanding the policies and procedures set forth in this PG.

- To the extent that proposed disclosures involve classified information, prepublication review processing will be conducted in conformance with 28 CFR § 17.18.
- 5 CFR Part 2635 (Standards of Conduct) and 5 CFR Part 3801 (Supplemental Standards of Conduct for Employees of the Department of Justice).
- FBI personnel who wish to make court appearances or respond to subpoenas in their personal capacities, which could require them to divulge FBI information, should contact their CDCs or the OGC for additional guidance. Disclosure of DOJ/FBI information in federal or state proceedings is subject to the provisions of 28 CFR Part 16, Subpart B.

The following legal authorities provide guidance with respect to certain prohibited disclosures:

- Information protected from disclosure by the Privacy Act of 1974 (5 U.S.C. § 552a), as amended.
- Information that would reveal grand jury material protected from disclosure by Rule 6(e) of the Federal Rules of Criminal Procedure.
- Information pertaining to wiretaps or intercepts, electronic communications (including storage mechanisms), or foreign intelligence protected or regulated by Title III (18 U.S.C. §§ 2510-2520) or FISA (50 U.S.C. §§ 1801-1862).
- Information pertaining to currency transaction reports regulated or protected by 31 U.S.C. §§ 5313-5319.
- Tax return information regulated or protected by 26 U.S.C. § 6103.
- Any other information that the FBI would have discretion to withhold from disclosure pursuant to civil discovery obligations; the Freedom of Information Act (5 U.S.C. § 552); EO 13526 (Classification of National Security Information); or any other statute, law, or regulation.

Appealing a prepublication decision:

- FBI personnel may appeal an adverse decision to the RMD's AD. The AD will act pursuant to a delegation of authority from the Director. The decision of the RMD's AD is final, except in decisions relating to the deletion of classified information, which may be appealed to the deputy Attorney General per 28 CFR § 17.18.

**UNCLASSIFIED**  
Prepublication Review Policy Guide

## **6. Recordkeeping Requirements**

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All FBI personnel are obligated to comply with prepublication review requirements by virtue of this provision, as well as by the FBI Employment Agreement (FD-291), signed by all FBI personnel as a condition of employment; by analogous forms, such as the "Nondisclosure Agreement for Joint Task Force/Contract Members" (FD-868), signed by task force members, contractors, and the like; by the "Classified Information Nondisclosure Agreement" (SF-312), signed by all FBI personnel as a condition of being granted access to classified information; and by the "Sensitive Compartmented Information (SCI) Nondisclosure Agreement" (Form 4414), signed by all FBI personnel with access to SCI information as a condition of such access.

In addition, prepublication review files contain copies of proposed publications (e.g., manuscripts, articles, and pamphlets); correspondence between the prepublication review staff and subject matter experts; notes; and correspondence with the author, including objections to the release of certain information and/or requests to modify portions of the publication. In the past, the review files were organized by the author's last name; however, beginning in 2004, the review files were assigned a chronological number based on the date of submission. Records documenting the evaluation process include a copy of the publication, reviewer's notes, comments from subject matter experts, and correspondence with the author.

These files are permanent records; they will be transferred to the National Archives and Records Administration (NARA) ten years after completion of review or after final adjudication of litigation, whichever is later, in accordance with NARA Disposition Authority N1-065-05-6. Because files created prior to 2004 are not arranged by date, they will be managed and transferred as a collection.

Records relating to requests that do not require FBI review are temporary records. These records are deleted/destroyed one year after file cutoff. Files are cut off at the end of the fiscal year.

**UNCLASSIFIED**  
Prepublication Review Policy Guide

**Appendix A: Final Approvals**

<b>POLICY TITLE:</b> <i>Prepublication Review Policy Guide</i>	
<b>Primary Strategic Objective</b>	P10- Enhance trust and confidence in the FBI
<b>Publish Date</b>	2015-06-04
<b>Effective Date</b>	2015-06-04
<b>Review Date</b>	2018-06-04
<b>EXEMPTIONS</b>	
None	
<b>APPROVALS</b>	
<b>Sponsoring Executive Approval</b>	<b>Michelle A. Jupina</b> Assistant Director Records Management Division
<b>Final Approval</b>	<b>Kevin L. Perkins</b> Associate Deputy Director

**UNCLASSIFIED**  
Prepublication Review Policy Guide

## **Appendix B: References**

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The following are references pertaining to information in this PG:

- *FBI Ethics and Integrity Program Policy Directive and Policy Guide, 0754DPG*  
(“Outside Employment”)
- *Work Schedule Corporate Policy Directive and Policy Implementation Guide, 0576DPG* (“Part-Time Special Agent Employment Program”)

## **Appendix C: Definitions and Acronyms**

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**Assignee:** any person assigned a task with FBI-related material.

**FBI employee:** a full-time equivalent employee of the FBI who is authorized to represent the Bureau in matters involving official government business.

**FBI information:** any knowledge gained through FBI employment or assignments related to the FBI.

**FBI personnel:** individuals employed by, detailed to, or assigned to the FBI, including members of the armed forces; experts or consultants to the FBI; industrial or commercial contractors, licensees, certificate holders, or grantees of the FBI, including all subcontractors; personal service contractors of the FBI; or any other category or person who acts for, or on behalf of, the FBI, as determined by the FBI Director.

**Government contractor employee:** an employee of a contractor organization conducting business with the FBI, U.S. DOJ, or other federal government agency.

**Intern:** a person working for the FBI under special appointment.

**Prepublication review:** the process whereby FBI-related information is reviewed for potential approval for distribution to external sources.

**Prohibited disclosure:** specific information that is not releasable to external sources.

**Proposed disclosure:** FBI-related information for possible release to external sources.

**Task force officer:** See the *Domestic Investigations and Operations Guide* (DIOG), subsection 3.3.2.1.

**Task force member:** See DIOG subsection 3.3.2.2.

**Task force participant:** See DIOG subsection 3.3.2.3.

**Unauthorized recipient:** any person without appropriate clearance to review FBI-related information.

### **Acronyms**

AD	assistant director
CDC	chief division counsel
CFR	Code of Federal Regulations
CIA	Central Intelligence Agency
DOJ	Department of Justice
FBIHQ	Federal Bureau of Investigation Headquarters

**UNCLASSIFIED**  
Prepublication Review Policy Guide

FISA	Foreign Intelligence Surveillance Act
IRB	Institutional Review Board
FBI	Federal Bureau of Investigation
FBIHQ	Federal Bureau of Investigation Headquarters
FO	field office
Legat	legal attaché
NARA	National Archives and Records Administration
OCA	Office of Congressional Affairs
OGC	Office of the General Counsel
OIC	Office of Integrity and Compliance
PG	policy guide
RIDS	Record/Information Dissemination Section
RMD	Records Management Division
SCI	Sensitive Compartmented Information
U.S.C.	United States Code



U.S. Department of Justice

Federal Bureau of Investigation

Records Management Division  
Winchester, VA 22602-4843

December 15, 2017

Mr. Michael S. Zummer



b6 2

Re: Prepublication Appeal Request dated May 17, 2017

Dear Mr. Zummer,

This responds to your e-mail request of May 17, 2017, per Section 4.3.2 of the Prepublication Review Policy Guide (0792PG, hereinafter "Policy Guide") appealing the Record Information/Dissemination Section's (RIDS) redactions of your letter addressed to the Honorable Kurt D. Engelhardt, dated September 6, 2016. This action concerns the component of your request seeking publication of the letter to the media.

I have reviewed your appeal of the redactions applied to your letter of September 6, 2016, in the context of release to the media and have concluded the redactions were properly applied to the documents.

The content of your work acquired as an [REDACTED] in a criminal case prosecuted in the Eastern District of Louisiana triggers several prohibited disclosures. Specifically, publication of the redacted portions of your letter to the media would reveal: (i) privileged, internal FBI and DOJ information (deliberative process privilege and attorney work product privilege); (ii) sensitive law enforcement techniques, procedures and considerations; (iii) substantive information related to open investigations; and, (iv) could reasonably be expected to constitute an unwarranted invasion of personal privacy of numerous individuals you identify. See Prepublication Review Policy Guide, Section 4.1.4.

b6 2

The RIDS' findings are based on Bureau publication and security policy and extend only to the information contained in your letter dated September 6, 2016. You are further advised that this decision does not address or relieve you of the standards and other applicable FBI and Office of Government Ethics regulations or policies as set forth in the FBI Ethics and Integrity Program Policy Guide (0454PB).

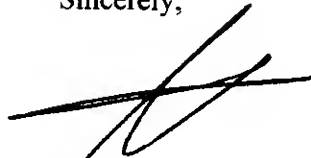
In conclusion, I have determined the redactions applied to your letter of September 6, 2016, were proper as the passage contain privileged and law enforcement sensitive information related to a criminal case that you were able to access and compile solely in your capacity as an [REDACTED] in this federal proceeding. Accordingly, your appeal is denied.

b6 2



As prescribed by the Prepublication Review Policy Guide, Section 4.3.2, this is a final decision.

Sincerely,

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the left.

Stephen P. Rees  
Assistant Director  
Records Management Division